Supreme Court, U.S.
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95-973
NO.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1995

RICHARD D. JENKINS,
Petitioner

v.

NATIONAL LABOR RELATIONS BOARD,
Respondent

Supplemental Appendix to the Petition For Writ Of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

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APPENDIX F
AMALGAMATED TRANSIT UNION

May 10, 1993

TO: ALL FORMER AND CURRENT GREYHOUND MEMBERS

Dear Sisters and Brothers:

We are sending this letter to all those whom our records identify as members of one of the 19 Greyhound locals represented by the National Greyhound Council on March 2, 1990, when the Greyhound strike began. Because of the disruptions and turmoil caused by the strike many of you have had to go on to other employment or, for financial or other reasons, have ceased to maintain your membership. Some of you are currently Greyhound employees but have ceased to pay union dues.

Presumably, all of you are now aware at least from press reports, that after many months of frustration, the ATU was finally able, with the active participation of the council's officers and seven of its remaining local presidents, to negotiate a setlement of our three-year old labor dispute with Greyhound.* The ratification ballot on this contract, the contract and return-to-work agreement was mailed out on April 21, 1993, returnable May 7. By a vote of 483 to 368 this contract settlement was approved and is now in effect.

After receiving a number of calls and

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* Petitioner's position is that the previous statement is not true to fact.

letters from those who question why they did not receive a ratification ballot, we thought it best to write this letter to all those affected, explaining the position that we took on voting eligibility in accordance with our laws and previously declared policies.

The starting point in reaching this decision was Section 23 of the Constitution which provides for negotiation of a "single contract which shall cover the membership employed on the property of all the L.U.s which are members of the Joint Council." Historically, this provision has been applied to permit only those who retained active membership in their locals to vote on the Greyhound contract. Those who had taken a withdrawl card and transferred to another local union representing another employer or to membership-at-large or who had otherwise secured permanent employment elsewhere (Section 19.9) were never deemed eligible to receive a ratification ballot.

In this instance, the voting eligibility list was broadened to include not only those who were active members in good standing in our remaining Greyhound local unions, but also those who had assumed temporary status as members-at-large for the duration of the labor dispute under the terms stated in my letter to all Greyhound locals dated October 20, 1991.* When the issue

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arose at the time of that letter, it was explained that all those who transferred to at-large status would be allowed to retain their right to participate in any contract ratification vote even though they would no longer be eligible to vote as a local union member.*

It was not our desire to deprive anyone of the rights they enjoyed as an ATU member of Greyhound local union and an employee of Greyhound. While I fully understand other strikers had an interest in the settlement, they were not members in good standing in the ATU or were not members of Greyhound local unions.* It was difficult, if not impossible, to ascertain whether striking Greyhound employees had found other employment or had any desire to return to work at Greyhound. Many had retired from the company during the dispute. Some had obtained other permanent employment and were members of other ATU local unions. Given these circumstances and the lengthy duration of the strike, we believe the decision we made for voting on this settlement was fully consistent with circumstances and with our laws and past policy statements.* Now that the settlement has been ratified, we want to assure all of you that the collective bargaining and return-to-work agreements protect the rights of all strikers, regardless of their current membership status.* The terms of this

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* Petitioner's position is that the previous statement is not true to fact.

settlement include a collective bargaining agreement extending through January 31, 1999, $22 million in back pay distributed from a bankruptcy court escrow fund to all eligible strikers by the NLRB under its customary standards, and the guaranteed recall of at least 550 strikers in seniority order by location between January 1, 1993, and July 1, 1993. We would urge all those who wish to return to their Greyhound employment who have not already done so to sign the recall list as soon as possible to be eligible for available vacancies.

In closing, we believe this agreement represents an important step toward a new attitude and commitment at the highest levels of both the Company and the Union to achieve a better labor-management relationship that will ultimately ensure quality jobs, better service to the public and a brighter future for all concerned.*

Fraternally,

"S/ _____"
Jim LaSalla
International President

aa
cc ALL International Officers
All Greyhound Council Officers and
Local Union Presidents

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* Petitioner's position is that the previous statement is not true to fact.

APPENDIX F5

20.3 REFERENDUM VOTE. In case the International representative who is handling questions in dispute between a L.U. and the employing company has propositions that he or she believes should be considered by the membership, the International representative shall acquaint the membership with such propositions either through a circular carefully outlining and explaining the propositions, or through a general meeting of the L.U. After having acquainted the membership with the proposition or propositions, the International representative shall then have a referendum vote of the membership of the L.U. taken upon the same. If the L.U. has bylaws providing for a referendum vote of its membership, the International representative shall follow such provisions. If the L.U. has no bylaws governing such a vote, the International representative shall then make arrangements and have such votes taken in the best and easiest manner possible--either by appointing a special election day and having the membership come to the hall or headquarters of the L.U. and cast their vote, or through a committee who shall take the vote of the members at the different places of employment. Every member shall be given an opportunity to vote upon said proposition and the majority of the votes cast by the membership of the L.U. shall decide the question.